

the equipment, parts, components, materials or “software” to have been configured, modified or specified for the particular purpose. For example, any military specification memory circuit would be “capable of” operation in a guidance system.

Use. (All categories and General Technology Note)—Operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.

NOTE: If an ECCN specifies one or more of the six elements of “use” in the heading or control text, only those elements specified are classified under that ECCN.

User-accessible programmability. (Cat 4, 5, and 6)—The facility allowing a user to insert, modify, or replace “programs” by means other than:

(a) A physical change in wiring or interconnections; or

(b) The setting of function controls including entry of parameters.

Utilization facility. (a) As defined by 10 CFR 110.2 of the Nuclear Regulatory Commission Regulations, utilization facility means a nuclear reactor, other than one that is a production facility, any of the following major components of a nuclear reactor: Pressure vessels designed to contain the core of a nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor:

(1) Primary coolant pumps;

(2) Fuel charging or discharging machines; and

(3) Control rods.

(b) Utilization facility does not include the steam turbine generator portion of a nuclear power plant.

Vacuum Atomization. (Cat 1)—A process to reduce a molten stream of metal to droplets of a diameter of 500 micrometer or less by the rapid evolution of a dissolved gas upon exposure to a vacuum.

Variable geometry airfoils. (Cat 7)—Use trailing edge flaps or tabs, or leading edge slats or pivoted nose droop, the position of which can be controlled in flight.

Vector Rate. (Cat 4)—See: “Two dimensional Vector Rate”; “Three dimensional Vector Rate”.

You. Any person, including a natural person, including a citizen of the United States or any foreign country;

any firm; any government, government agency, government department, or government commission; any labor union; any fraternal or social organization; and any other association or organization whether or not organized for profit.

[61 FR 12925, Mar. 25, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 772.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

PART 774—THE COMMERCE CONTROL LIST

Sec.

774.1 Introduction.

774.2 [Reserved]

SUPPLEMENT No. 1 TO PART 774—THE COMMERCE CONTROL LIST

SUPPLEMENT No. 2 TO PART 774—GENERAL TECHNOLOGY AND SOFTWARE NOTES

SUPPLEMENT No. 3 TO PART 774—STATEMENT OF UNDERSTANDING

SUPPLEMENT No. 4 TO PART 774—COMMERCE CONTROL LIST ORDER OF REVIEW

SUPPLEMENT No. 5 TO PART 774—ITEMS CLASSIFIED UNDER ECCNS 0A521, 0B521, 0C521, 0D521 AND 0E521

SUPPLEMENT No. 6 TO PART 774—SENSITIVE LIST

SUPPLEMENT No. 7 TO PART 774—VERY SENSITIVE LIST

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

SOURCE: 61 FR 12937, Mar. 25, 1996, unless otherwise noted.

§ 774.1 Introduction.

(a) *Scope of the control list.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. The Bureau of Industry and Security (BIS) maintains the Commerce Control List (CCL) that includes “items”—i.e., “commodities,” “software,” and “technology”—subject to the authority of BIS. The CCL does not include items exclusively controlled for export by another department or agency of the U.S. Government, though

in instances where other agencies administer controls over related items, entries in the CCL may contain a reference to such controls. In addition, those items “subject to the EAR” but not identified on the CCL are identified by the designator “EAR99.” See § 734.2(a) of the EAR for items that are “subject to the EAR.” EAR Part 738 contains an explanation of the organization of the CCL and its relationship to the Country Chart.

(b) *ECCN cross-references for items subject to exclusive jurisdiction of another agency.* (1) Prior to October 15, 2013, the CCL contained certain ECCNs that were only included as cross references to items subject to the export control regulations administered by the Nuclear Regulatory Commission.

(2) ECCNs formerly listed on the CCL that, as of October 15, 2013 were subject to the export licensing authority of the Nuclear Regulatory Commission at 10 CFR part 110 are: 0A001, 0B001, 0B002, 0B003, 0B004, 0B005, 0B006, 0C001, 0C002, 0C004, 0C005, 0C006, 0C201 and 1C012.

(3) The following multilateral export control regime reference is provided, as an additional point of historical reference: 0C201—INFCIRC 254 Part 1, 5.3.1(b).

NOTE TO PARAGRAPH (b): ECCNs 0D001 and 0E001 are “subject to the ITAR” (see 22 CFR parts 120 through 130). These ECCNs are retained on the CCL as cross references to the ITAR, although the former cross references to export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110) for ECCN 0D001, and to the Department of Energy (see 10 CFR part 810) for 0E001 were removed from the Control(s) paragraph in the License Requirements section of these two ECCNs and added as a more general jurisdictional cross reference in a heading note added to these two ECCNs as of June 5, 2014.

(c) *Where to find the CCL?* The CCL is contained in Supplement No. 1 to this part, and Supplement No. 2 to this part contains the General Technology and Software Notes relevant to entries contained in the CCL.

(d) *Conventions related to the use of quotation marks on the CCL.* The use of double quotation marks on the CCL is intended to be an aid to alert you to terms used on the CCL that are defined in part 772 (Definitions of Terms), or for purposes of ECCNs, where a definition is provided in the “related defini-

tions” paragraph in the License Requirements section of ECCNs or sometimes in Notes and Technical Notes for particular ECCNs and that definition is specific to that particular ECCN. In this sense the quotes are helpful both in the use of single and double quotes, but a good compliance practice is to familiarize yourself with the defined terms in part 772, and when reviewing a control parameter on the CCL that uses a term that is not in quotes to be aware it may be defined in part 772. It is also a useful compliance practice to review the “Related Definitions” paragraph and Notes and Technical Notes to determine if the term is defined for purposes of a particular ECCN.

(1) *Use of double quotes.* If a term on the CCL uses double quotes it means there is a defined term in part 772. However, the absence of double quotes does not mean that a term used on the CCL is not defined in part 772. Because the CCL includes many terms that are defined in part 772, BIS’s practice is to use double quotes for certain key terms and to use double quotes when needed for consistency with multilateral export control regime based entries, such as many derived from control lists, in particular for the Wassenaar Arrangement that also uses the double quotes convention. However, because of the large number of defined terms used on the CCL and a desire to avoid hindering readability by placing quotes around too many words used in particular ECCNs, BIS’s practice is to not add double quotes around certain terms, such as items and commodities. This convention also applies to the use of double quotes within the Definition of Terms section under part 772.

(2) *Use of single quotes.* The CCL also includes a convention regarding the use of single quotes. Single quotes on the CCL identify a term as a defined term in the context of a particular ECCN. This convention also applies to the use of single quotes within the Definition of Terms section under part 772.

[78 FR 61903, Oct. 4, 2013, as amended at 79 FR 32627, June 5, 2014]